

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

UNITED STATES FOR THE USE AND  
BENEFIT OF MID STATE CONSTRUCTION  
COMPANY, INC.; and MID STATE  
CONSTRUCTION COMPANY, INC.

PLAINTIFFS

VS.

CIVIL ACTION NO. 5:11-cv-169(DCB)(MTP)

TRAVELERS CASUALTY AND  
SURETY COMPANY OF AMERICA; U.S.  
COATING SPECIALTIES & SUPPLIES,  
LLC; and EARL WASHINGTON

DEFENDANTS

ORDER

This cause is before the Court on plaintiff Mid State Construction Company, Inc. ("Mid State")'s Motion In Limine to Exclude Evidence from Travelers Regarding the Payment Dispute Between Mid State and U.S. Coating (**docket entry 157**). Having carefully considered the motion and response, the memoranda and applicable law, and being fully advised in the premises, the Court finds as follows:

Mid State seeks an order barring Travelers from offering any evidence or testimony that attempts to describe or otherwise characterize the payment dispute between Mid State and U.S. Coating. On April 30, 2013, Mid State took a 30(b)(6) deposition of Roberta Ziv-Goldstein, Travelers' designee. The 30(b)(6) notice served by Mid State included a request for information concerning, inter alia, Travelers' investigations into whether U.S. Coating properly paid Mid State, and the circumstances regarding U.S.

Coating's and Mid State's payment dispute. Mid State argues that because Travelers failed to fully respond to these requests through Ms. Ziv-Goldstein, and failed to offer a substitute witness to do so, it should be barred from presenting such evidence at trial beyond Ms. Ziv-Goldstein's existing testimony.

Travelers responds that Ms. Ziv-Goldstein did respond to the questions put to her regarding U.S. Coating's and Mid State's payment dispute. Furthermore, she was the person who conducted the investigation for Travelers. The question is whether her answers were deficient and, if so, whether Travelers can offer supplemental answers at trial. This can only be resolved on a question-by-question basis, and the Court will have to address the issue at trial. Accordingly,

IT IS HEREBY ORDERED that plaintiff Mid State Construction Company, Inc.'s Motion In Limine to Exclude Evidence from Travelers Regarding the Payment Dispute Between Mid State and U.S. Coating (**docket entry 157**) is DENIED without prejudice.

SO ORDERED, this the 18th day of November, 2013.

/s/ David Bramlette  
UNITED STATES DISTRICT JUDGE